

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALLAN FLETCHER,

Plaintiff,

v.

CLENDENIN, *et al.*,

Defendants.

Case No. 1:22-cv-00249-AWI-BAM (PC)

ORDER DISCHARGING ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE DISMISSED FOR FAILURE TO PROSECUTE

(ECF No. 27)

ORDER CLARIFYING DEADLINE FOR DEFENDANTS TO FILE REPLY TO PLAINTIFF'S OPPOSITION

FOURTEEN (14) DAY DEADLINE

Plaintiff Allan Fletcher ("Plaintiff") is a civil detainee proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Individuals detained pursuant to the California Welfare and Institutions Code § 6600 *et seq.* are considered civil detainees and are not prisoners within the meaning of the Prison Litigation Reform Act. *Page v. Torrey*, 201 F.3d 1136, 1140 (9th Cir. 2000). This action proceeds on Plaintiff's first amended complaint against Defendants Clendenin and Price for failure to treat Plaintiff under the Fourteenth Amendment Due Process Clause due to their official policy.

On November 17, 2022, Defendants filed a motion to declare Plaintiff a vexatious litigant. (ECF No. 25.) Following Plaintiff's failure to file an opposition or other response by the deadline of December 12, 2022, Defendants filed a reply on January 6, 2023 requesting that the motion be

1 deemed unopposed and granted. (ECF No. 26.)

2 On January 9, 2023, in light of Plaintiff's *pro se* status, the Court found it appropriate to
3 grant Plaintiff a final opportunity to show cause by written response why this action should not be
4 dismissed, with prejudice, for failure to prosecute. (ECF No. 27.) Plaintiff was informed that he
5 could comply with the Court's order by filing an opposition or statement of non-opposition to
6 Defendants' motion within twenty-one days of service of that order. (*Id.*)

7 On February 6, 2023, Plaintiff filed an opposition, dated February 2, 2023, to Defendants'
8 motion to declare Plaintiff a vexatious litigant. (ECF No. 28.) Accordingly, the order to show
9 cause will be discharged.

10 The Court also finds it appropriate to clarify the deadline for the filing of Defendant's
11 supplemental reply brief, if any, in response to Plaintiff's opposition.

12 Accordingly, IT IS HEREBY ORDERED as follows:

13 1. The January 9, 2023 order to show cause, (ECF No. 27), is DISCHARGED;
14 2. Defendants' supplemental reply brief in response to Plaintiff's opposition to the motion to
15 declare Plaintiff a vexatious litigant, if any, is due within **fourteen (14) days** from the date
16 of service of this order.

17 IT IS SO ORDERED.
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19 Dated: February 7, 2023

20 /s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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